

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-2995

United States of America,

Appellee,

v.

Ray Reha,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: January 31, 2003
Filed: February 25, 2003

Before BOWMAN, WOLLMAN, and LOKEN, Circuit Judges.

PER CURIAM.

Ray Reha plead guilty to conspiracy to distribute and possess with intent to distribute 500 grams or more of a mixture containing methamphetamine, a violation of 21 U.S.C. § 841(a)(1), (b)(1) (2000), and 21 U.S.C. § 846 (2000), and to forfeiture of drug proceeds under 21 U.S.C. § 853 (2000). At sentencing, the District Court¹ denied Reha's motion for a downward departure, which was based upon extraordinary physical impairment, and sentenced him to 151 months of imprisonment and five years of supervised release.

¹The Honorable Richard G. Kopf, Chief Judge, United States District Court for the District of Nebraska.

Reha appeals, arguing the District Court abused its discretion in denying his motion. We will not review the District Court's refusal to depart, however, because the Court stated that it was aware of its authority to depart but declined to do so in this case. See United States v. Orozco-Rodriguez, 220 F.3d 940, 942 (8th Cir. 2000). Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.